

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE MANUEL AVALOS BANDERAS,

Defendant.

4:09CR3112

ORDER

In light of Chief Judge Gerrard's opinion in *United States v. Jenkins*, 4:15CR3079, (Filing no. 88), I find and conclude that the defendant has exhausted his administrative remedies. Therefore,

IT IS ORDERED that:

1. The motion for compassionate release (Filings 148 and 150) shall be restricted but available to the parties and the court (including the Probation Officer).
2. The Federal Public Defender or his designee is appointed to represent the defendant.
3. The United States Probation Officer for the District of Nebraska shall as soon as reasonably possible obtain the defendant's medical records from the Bureau of Prisons, file those medical records as sealed documents in this case, and provide copies to counsel for the government and counsel for the defendant. The Probation Officer shall also file as a restricted document his or her recommendations and evaluation after reviewing the defendant's medical records including but not limited to the inmate's proposed release plan, his adjustment while in prison and any other information deemed helpful by the probation officer. The recommendations and evaluation of the probation officer shall be provided to counsel when the Probation Officer submits that document for filing.
4. Fourteen calendar days after the submission of the recommendations and evaluation described in paragraph 2, the government shall submit a responsive brief.

The defendant through his counsel may submit a reply brief within ten calendar days after the government's responsive brief. Unless otherwise ordered, upon receipt of the defendant's reply brief or upon the expiration of the time for reply, the matter shall be deemed submitted. The briefs may be filed as restricted documents.

5. The Clerk's office shall provide a copy of this order to the Federal Public Defender, the United States Attorney, and Supervising United States Probation Officer Aaron Kurtenbach.

Dated this 20th day of November, 2020.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge